

Local Law Filing

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Village of Fayetteville

Local Law No. 4 of the year 2013.

A local law establishing Chapter 66 of the Village of Fayetteville Municipal Code entitled "Fences."

Be it enacted by the Board of Trustees of the Village of Fayetteville as follows:

Section One (1).

GENERAL REFERENCESBuildings, Structures, Premises, Equipment and Conditions, Unsafe, Unfit or Unlawful — See Ch. 55.Communication Towers — See Ch. 187Dumpsters — See Ch. 86Fire Prevention and Building Construction Administration — see Ch. 78Swimming Pools, Private — See Ch. 154.Zoning — See Ch. 187

Section Two (2).

§ 66-1 Purpose and Intent

It is the purpose and intent of this Chapter to establish regulations for the installation and construction of fences on real property located within the Village of Fayetteville.

§ 66-2 General Definitions.**Definitions and word usage.**

- A. **Scope.** Unless otherwise expressly stated, the words and terms shall, for the purposes of the Code of the Village of Fayetteville, have the meaning shown in this Chapter.
- B. **Interchangeability.** Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter gender; and the singular number includes the plural, while the plural number includes the singular. The word "shall" is always mandatory; the words "may" or "will" are always permissive.

- C. **Terms defined in other codes.** Where terms are into defined in the *National Electric Code (NEC)* or in the *Code of Village of Fayetteville* and are defined in the *New York State Uniform Fire Prevention and Building Code (Uniform Code)*, such terms shall have the meanings ascribed to them as in those codes.
- D. **Terms not defined.** Where terms are not defined through the methods authorized by this Chapter, such terms shall have ordinarily accepted meanings such as the context implies. *Webster's Third International Dictionary of the English Language, Unabridged*, shall be considered as providing ordinarily accepted meanings.

§ 66-3 Location of Fences or Screening Devices

- A. No fence or screening device shall be installed or maintained in any easement, public street, sidewalk or right of way unless submitted to and approved by formal resolution of the Village of Fayetteville's Board of Trustees.
- B. A fence or screening device shall be located a minimum of 12 inches back from any public sidewalk. If there is no public sidewalk, the fence or screening device shall be installed a minimum of ten (10) feet from the edge of the road.
- C. No fence or screening device shall be no more than four (4) feet high (above grade) in the front yard (as defined below).
 - (1) The front yard is the space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front lot line (§187-2, B).
 - (2) At all street intersections there shall not be constructed any obstructions to sight lines of vehicular traffic. No fence, wall, hedge or other similar planting more than 3½ feet shall be erected, placed or maintained within the triangular areas formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet distant from the point of intersection, measured along said street lines (§187-10, B).
- D. No fence or screening device shall be no more than four (4) feet high (above grade) in the side yard (as defined below) between the front yard (as defined above) and the front corner of the principal structure. No fence or screening device shall be no more than six (6) feet high (above grade) between the front corner of the principal structure and the rear lot line (§187-2, B).

The side yard is the space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line (§187-2, B).
- E. No fence or screening device shall be no more than six (6) feet high (above grade) in the rear and side yard in the rear yard (as defined herein).

The rear yard is the space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such rear lot line (§187-2, B).

§ 66-4 Materials of Fences or Screening Devices

- A. Fencing or screening device shall be uniform in design, of natural or natural appearing material or chain link.

No barb or electric wired fencing shall be allowed.
- B. The finished, or more aesthetically pleasing finished side of the fence or screening device shall face the adjoining properties.

§ 66-5 Other Fences or Screening Devices

- A. All swimming pools shall be effectively fenced by an artificial enclosure not less than four (4) feet in height above the ground and surrounds either the property or the pool area (§154-9).
- (1) If there is a gate in the fence, said gate shall have a lock.
 - (2) The fence shall be strong enough to make the pool inaccessible to small children.
 - (3) The fencing shall be opaque or made so by plantings such as bushes or trees.
 - (4) Fencing of aboveground pools shall be required, unless the aboveground pool in its entirety is four (4) feet in height above the ground.
- B. In other than R-1, R-2, R-3 & R-4 residential districts, the placement of swimming pools together with the restrictions imposed thereby for a proposed fence or screening device shall require site plan approval by the Village of Fayetteville's Planning Board.
- Recreation courts installed in a rear yard (as defined in the Zoning Code of the Village of Fayetteville), may be a maximum of twelve (12) feet in height subject to site plan approval by the Village of Fayetteville's Planning Board.
- C. Dumpsters used for the collection of garbage and other waste materials shall be enclosed on all sides by a solid and opaque fence and gate enclosure that exceeds the height of the dumpster by a minimum of one (1) foot (§86-22).
- (1) The fencing shall be opaque or made so by plantings such as bushes or trees.
 - (2) The minimum setback of the fencing for a dumpster from an adjoining residential property shall be ten (10) feet.
- E. Communication towers and accessory structures shall be enclosed by a locked security fence not less than six (6) in height (§187-69).
- (1) The tower itself shall be equipped with appropriate anti-climbing devices.
- G. Fencing or screening devices not otherwise addressed in this Chapter shall require site plan approval by the Village of Fayetteville's Planning Board.

§ 66-6 Disputes

In the event of an issue or dispute regarding the foregoing, the Codes Enforcement Officer shall make the determination subject to the owner's right to appeal such determination via a variance or interpretation to the Zoning Board of Appeals.

§ 66-7 Waiver or Assumption of Liability.

This Chapter shall not create liability on the part of the Village of Fayetteville, any officer or employee thereof for any damage that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

- A. Contiguous property owners sharing common fencing, screening device and/or attached fence posts or where fencing, screening device and/or attached fence posts are installed on the common property line are

advised to consider establishing a written agreement between property owners that would be binding on successors in title and recorded in the Onondaga County Clerk's Office. Otherwise improvements located on the common property line may be subject to removal by any present or subsequent transferee of either property.

§ 66-8 Variances.

Any person aggrieved by the Code Enforcement Officer's application of any of the provisions of this chapter may appeal such decision to the Zoning Board of Appeals of the Village of Fayetteville as provided in the zoning regulations of the Village of Fayetteville and the Village Law and shall comply with all procedural requirements prescribed by such Zoning Board of Appeals.

§ 66-9 Penalties for offenses.

Any person committing an offense against any of the provisions of this Chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable for each offense by a fine or by imprisonment as set forth in Chapter 113 of this Code.

Section Three (3). ILLEGALITY/SEVERABILITY.

Any part of this local law or the application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to the other persons or circumstances. Further, in adjudging such invalid provision, the court shall attempt to modify same to a provision which is not invalid and which best achieves the intent of the invalid provision.

Section Four (4). EFFECTIVE DATE.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. Three (3) of 2013 of the Village of Fayetteville was duly passed by the Village Board of Trustees of the Village of Fayetteville on March 12, 2013 in accordance with the applicable provisions of law.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)